

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
PUBLIC UTILITIES COMMISSION)
Instituting Proceedings to Investigate the)
Implementation of Feed-In Tariffs)
_____)

Docket No. 2008-0273

STIPULATED PROCEDURAL ORDER

EXHIBIT "A"

and

CERTIFICATE OF SERVICE

Filed _____, 200__

At _____ o'clock _____.M.

Chief Clerk of the Commission

Public Utilities Commission

DEC 22 2008

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII


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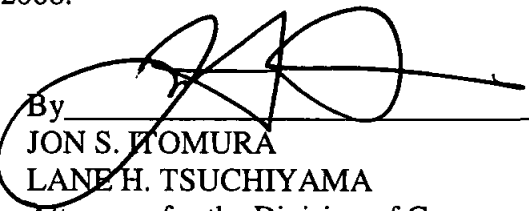
Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), Hawaii Electric Light Company, Inc. ("HELCO"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate"), the Department of Business Economic Development and Tourism ("DBEDT"), City and County of Honolulu ("City"), County of Hawaii ("Hawaii County"), Hawaii Holdings dba First Wind Hawaii ("First Wind"), and Sempra Generation ("Sempra") hereby


stipulate that the attached Stipulated Procedural Order is mutually acceptable to each respective party.

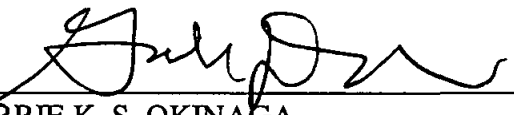
Dated: Honolulu, Hawaii, December 22, 2008.


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Life of the Land

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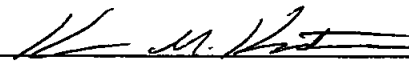
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Zero Emissions Leasing LLC

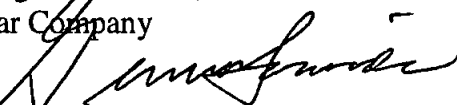
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BEFORE THE PUBLIC UTILITIES COMMISSION
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STIPULATED PROCEDURAL ORDER

By the Order Initiating Investigation, filed on October 24, 2008 ("Order"), the Commission instituted this proceeding to investigate the implementation of feed-in tariffs in the service territories of Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), and Hawaii Electric Light Company, Inc. ("HELCO")(collectively "HECO Companies").

As discussed in the Order, on October 20, 2008, the Governor of the State of Hawaii, the State of Hawaii Department of Business, Economic Development and Tourism ("DBEDT"), the State of Hawaii Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs ("Consumer Advocate") and the HECO Companies entered into a comprehensive agreement ("Agreement") designed to move the State away from its dependence on imported fossil fuels for electricity and ground transportation, and toward "indigenously produced renewable energy and an ethic of energy efficiency."¹ A product of the Hawaii Clean Energy Initiative, the Agreement is a commitment on the part of the State and the HECO Companies to

¹ Order at 1-2 (quotations in original)(footnote omitted)

accelerate the addition of new, clean resources on all islands; to transition the HECO Companies away from a model that encourages increased electricity usage; and to provide measures to assist consumers in reducing their electricity bills.²

Included in the Agreement is a commitment by the HECO Companies to implement feed-in tariffs to accelerate the addition of renewable energy from new sources and to encourage increased development of alternative energy projects. The Order describes a feed-in tariff as a “set of standardized, published purchased power rates, including terms and conditions, which the utility will pay for each type of renewable energy resource based on project size fed to the grid.”³

As stated in the Agreement:

[F]eed-in tariffs are beneficial for the development of renewable energy, as they provide predictability and certainty with respect to the future prices to be paid for renewable energy and how much of such energy the utility will acquire. The parties agree that feed-in tariffs should be designed to cover the renewable energy producer’s costs of energy production plus some reasonable profit, and that the benefits to Hawaii from using a feed-in tariff to accelerate renewable energy development (from lowering oil imports, increasing energy security, and increasing both jobs and tax base for the state), exceed the potential incremental rents paid to the renewable providers in the short term.⁴

In their Agreement, the HECO Companies and the Consumer Advocate request that, by March 2009, the commission:

conclude an investigative proceeding to determine the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative, considering such factors as categories of renewables, sizes or locational limits for projects qualifying for the feed-in tariff, how to manage and identify project development milestones relative to the queue of projects wishing to take the feed-in tariff terms, what annual limits should apply to the amount of renewables allowed to take the feed-in tariff terms, what factors to incorporate into the prices set for feed-in tariff payments, and the terms, conditions, and duration of the feed-in tariff that shall be offered to all qualifying renewable projects, and the continuing role of the Competitive Bidding Framework.⁵

² Order at 2 (footnote omitted)

³ Order at 2 (quotations in original)(footnote omitted)

⁴ Order at 2-3 (footnote omitted)

⁵ Order at 3 (footnote omitted)

The HECO Companies and the Consumer Advocate also agreed that they would request that the commission “adopt a set of feed-in tariffs and prices that implement the conclusions of the feed-in tariff investigation by July 2009.”⁶

Given the HECO Companies and the Consumer Advocate’s agreements, the Commission found it appropriate to institute this proceeding to address the issues related to implementation of feed-in tariffs in the HECO Companies’ service territories. In addition, to expedite the process, the commission directed the HECO Companies and the Consumer Advocate to submit to the commission a joint proposal on feed-in tariffs that addresses all of the factors identified in their Agreement within sixty days of the date of the Commission’s Order. The Commission directed that the joint proposal should take into account the considerations and criteria set forth in a scoping paper on feed-in tariffs that will be issued by the commission in this docket.⁷

Since they were signatories to the Agreement, and will be impacted by the outcome of this investigation, the commission named as parties to this proceeding: HECO, HELCO, MECO, and the Consumer Advocate.⁸

By its November 28, 2008 Order Granting Intervention (“Order Granting Intevention”), the Commission granted the motions to intervene as a party of the Department Of Business Economic Development And Tourism (“DBEDT”), City And County Of Honolulu (“City”), County Of Hawaii (“Hawaii County”), Hawaii Renewable Energy Alliance (“HREA”), Life Of The Land (“LOL”), Haiku Design And Analysis (“Haiku”), Sopogy, Inc. (“Sopogy”), Clean Energy Maui LLC (“Clean Energy”), Zero Emissions Leasing LLC (“Zero Emissions”),

⁶ Order at 3 (quotations in original)(footnote omitted)

⁷ Order at 3-4

⁸ Order at 5-6

Alexander & Baldwin Through Its Division Hawaiian Commercial & Sugar Company ("HC&S"), Blue Planet Foundation ("Blue Planet"), Hawaii Holdings dba First Wind Hawaii ("First Wind"), Maui Land & Pineapple Company ("Maui Land"), The Solar Alliance ("Solar Alliance"), Tawhiri Power ("Tawhiri"), Hawaii Solar Energy Association ("HSEA"), Sempra Generation ("Sempra") And Hawaii Bioenergy, LLC ("Hawaii Bioenergy") (collectively "Parties").⁹

The Order states that within forty-five days from the date of the Order, the Parties shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The stipulated procedural schedule that the Parties submit to the commission, should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009. If the Parties are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.¹⁰ The Order Granting Intervention extended the deadline for filing a stipulated procedural order until December 22, 2008.¹¹

The parties agree that the following provisions of this Stipulated Procedural Order are mutually acceptable to each.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

I. STATEMENT OF THE ISSUES

The issues in this docket, which shall be liberally construed within context, are:

⁹ Order Granting Intervention at Ordering Paragraph 1

¹⁰ Order at 7

¹¹ Order Granting Intervention at Ordering Paragraph 2.

1. The issues which the Commission has identified in Exhibit C to its December 11, 2008 paper entitled "Feed-In Tariffs: Best Design Focusing Hawaii's Investigation" (Scoping Paper).
2. What, if any, modifications are prudent and/or necessary to existing federal or state laws, rules, regulations or other requirements to remove any barriers or to otherwise facilitate the implementation of a feed-in tariff?
3. What is the best design for feed-in tariffs that support the acceleration and increased development of indigenous renewable energy resources in Hawaii, and their integration in the utility systems?
4. What categories of renewable energy resources should be eligible to participate in a feed-in tariff?
5. Should there be any limits on size, or location, or level of interconnection for renewable energy projects qualifying for the feed-in tariff? If so, what should those limits be and how should those limits be set?
6. How should project development milestones relative to the queue of projects wishing to take the feed-in tariff terms be managed and identified?
7. Should annual limits apply to the amount of renewables allowed to take the feed-in tariff terms? If so, how would these annual limits be set? How will other renewable projects be treated once these limits are met?
8. What factors should be incorporated into the prices set for feed-in tariff payments?
9. What should be the terms, conditions, interconnection requirements, procedures and duration of the feed-in tariff that should be available to qualifying renewable providers?
10. What is the continuing role of the Competitive Bidding Framework given any implementation of a feed-in tariff?
11. What should the relationship be between the proposed feed-in tariff and net energy metering?
12. Whether there should be a process or procedure to allow for the evaluation of the feed-in tariff program over time.

II. SCHEDULE OF PROCEEDINGS

The parties shall adhere to the schedule of proceedings set forth in the Stipulated Regulatory Schedule hereto attached as Exhibit "A". Notwithstanding the above, the parties shall have the right to amend the Stipulated Regulatory Schedule as may be agreed in writing and approved by the Commission from time to time. However, the intent of the parties in agreeing to a schedule at this time is to promote the efficient and cost-effective allocation of resources and to meet the deadlines set forth in the Agreement. Therefore any changes to the schedule should be proposed only when there is an urgency or substantial competing need that cannot be reasonably accommodated without a change.

III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS

A. Requests for Information

A party to this proceeding may submit information requests to another party within the time schedule specified in this Stipulated Procedural Order. If a party is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring party as soon as possible. The parties shall then endeavor to agree upon a later date for submission of the requested information. If the parties are unable to agree, the responding party, as applicable, may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the party to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g., documents over 50 pages), the documents or materials

may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the party responding to the information request shall make the diskette or such electronic medium available to the other parties and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all cell references and formulae intact, and will not be converted to values prior to submission. A party shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record. The responding party shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting party to locate and copy the document. In addition, a party shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

For each response to an information request, the responding party should identify the person who is responsible for preparing the response as well as the witnesses who will be responsible for sponsoring the response at the evidentiary hearing.

A party may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a party claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the party shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential

information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the party if the information were disclosed); and (3) state whether the party is willing to provide the confidential information to some or all representatives of the party pursuant to a protective order.

A party seeking production of documents notwithstanding a party's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each party to information requests shall adhere to a uniform system of numbering agreed upon by the parties. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1" and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document, indicating the name of the respondent for each response.

B. Copies of Documents and Statements of Position

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465 South King Street
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Original + 8 copies

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Through its division, HAWAIIAN COMMERCIAL & SUGAR COMPANY

C. Filings. All documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-15 of the Commission's Rules of Practice and Procedure.

Copies of all documents should be sent to the Commission and Division of Consumer Advocacy by hand delivery or United States mail (first class, postage prepaid). The Parties

stipulate and agree that service of documents between Parties, other than documents designated as confidential pursuant to any protective order adopted in this proceeding, shall be served electronically via e-mail in a portable document format ("pdf") by 5:00 p.m. on the day due. The Parties agree to use Word 97, Word 2000 or Word 2003 as the standard programming format for filings in this case and will submit their information requests to the other Parties in this format. The Parties also agree to submit any spreadsheets (e.g., used as workpapers or exhibits) in Microsoft Excel format. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a party shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified.

D. Communications

Chapter 61, Subchapter 3, Section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a party and the Commission. However, the Parties may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the Parties should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing party. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

E. General

These procedures are consistent with the orderly conduct of this docket. This Stipulated Procedural Order shall control the subsequent course of these proceedings, unless modified by

the Parties in writing and approved by the Commission, or upon the Commission's own motion.

This Stipulated Procedural Order may be executed by the Parties in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The Parties may execute this Stipulated Procedural Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

APPROVED AND SO ORDERED THIS _____,
at Honolulu, Hawaii.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By _____
Carlito P. Caliboso, Chairman

By _____
John E. Cole, Commissioner

By _____
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

Stacey Kawasaki Djou
Commission Counsel

EXHIBIT A

**Stipulated Regulatory Schedule
Proceeding to Investigate the Implementation of Feed-In Tariffs
Docket No. 2008-0273**

	PROCEDURAL STEPS	DEADLINE
1.	HECO Companies and Consumer Advocate Filing to Describe Proposal on Key Feed-In Tariff Design Issues, Policies and Pricing Methodologies	December 23, 2008
2.	Parties' Comments on Commission Scoping Paper	December 31, 2008
3.	Respond to Commission Scoping Paper Appendix C Legal Questions	January 12, 2009
4.	HECO Companies and Consumer Advocate File Straw Tariff Sheets and Methodologies	January 14, 2009
5.	Parties' Informal Questions to be addressed at Technical Meeting	January 16, 2009
6.	Technical Meeting to Explain Tariff Sheets and Respond to Questions from parties	January 20, 2009
7.	Respond to Commission Scoping Paper Appendices A and C (Non-Legal Questions)	January 26, 2009
8.	Parties' Comments on Straw Tariff Sheets and/or Simultaneous Distribution of Alternative Straw Tariff Sheets	January 30, 2009
9.	Simultaneous Information Requests by the Parties (limited to 5 questions to each party with no subparts)	February 6, 2009
10.	Settlement Discussions	February 13, 2009
11.	Simultaneous Response to Information Requests	February 27, 2009
12.	Filing of Settlement Agreement or Simultaneous Statements of Position	March 13, 2009

	PROCEDURAL STEPS	DEADLINE
13.	Commission Completion of Deliberations and Decision on Design of Feed-in Tariffs	March 31, 2009
14.	HECO Companies and Consumer Advocate Request that the Commission Adopt a Set of Feed-In Tariffs and Prices that Implement the Commission's Decision	April 24, 2009
15.	Technical Workshop on Tariff Sheets (to explain and clarify Tariff sheets to Parties)	May 8, 2009
16.	Parties' Comments on HECO Companies and Consumer Advocate Request that the Commission Adopt a Set of Feed-In Tariffs and Prices that Implement the Commission's Decision	May 29, 2009
17.	HECO Companies and Consumer Advocate Reply Comments	July 6, 2009
18.	Commission Adoption of Feed-In Tariffs and Prices that Implement the Commission's Decision	July 31, 2009

CERTIFICATE OF SERVICE

The foregoing Stipulated Procedural Order was served on the date of filing by mail, postage prepaid, and properly addressed or electronically transmitted to each such Party.

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Darcy L. Endo-Omoto
Vice President
Government & Community Affairs

December 22, 2008

PUBLIC UTILITIES
COMMISSION

2008 DEC 22 P 4: 21

FILED

The Honorable Chairman and Members of the
Hawaii Public Utilities Commission
465 South King Street, Room 103
Kekuanaoa Building
Honolulu, Hawaii 96813

Re: Docket No. 2008-0273 – Stipulated Procedural Order

Dear Commissioners:

The below noted parties are pleased to submit for the Commission's consideration and approval a Stipulated Procedural Order (SPO) in the above-referenced proceeding. The SPO represents a negotiated compromise on issues, procedural steps and a procedural schedule which sets forth what the signatories believe is a reasonable course for moving forward in the proceeding and meeting the directives set forth in the Commission's October 24 2008 Order Initiating Investigation ("Order"). Accordingly, the below noted parties respectfully request the Commission's approval of the SPO.

Procedural Background

By the Order Initiating Investigation, filed on October 24, 2008 ("Order"), the Commission instituted this proceeding to investigate the implementation of feed-in tariffs in the service territories of Hawaiian Electric Company, Inc. ("HECO"), Maui Electric Company, Limited ("MECO"), and Hawaii Electric Light Company, Inc. ("HELCO") (collectively "HECO Companies").

The Commission noted in its Order the HECO Companies and the Consumer Advocate's request that by March 2009, the Commission conclude an investigative proceeding to determine the best design for feed-in tariffs that support the Hawaii Clean Energy Initiative. (Order at 3) The Order also notes the agreement by the HECO Companies and the Consumer Advocate that they would request that the Commission "adopt a set of feed-in tariffs and prices that implement the conclusions of the feed-in tariff investigation by July 2009." (Id.)

By its November 28, 2008 Order Granting Intervention ("Order Granting Intervention"), the Commission granted the motions to intervene as a party of the Department Of Business Economic Development And Tourism ("DBEDT"), City And County Of Honolulu ("City"), County Of Hawaii ("Hawaii County"), Hawaii Renewable Energy Alliance ("HREA"), Life

Of The Land ("LOL"), Haiku Design And Analysis ("Haiku"), Sopogy, Inc. ("Sopogy"), Clean Energy Maui LLC ("Clean Energy"), Zero Emissions Leasing LLC ("Zero Emissions"), Alexander & Baldwin Through Its Division Hawaiian Commercial & Sugar Company ("HC&S"), Blue Planet Foundation ("Blue Planet"), Hawaii Holdings dba First Wind Hawaii ("First Wind"), Maui Land & Pineapple Company ("Maui Land"), The Solar Alliance ("Solar Alliance"), Tawhiri Power ("Tawhiri"), Hawaii Solar Energy Association ("HSEA"), Semptra Generation ("Semptra") And Hawaii Bioenergy, LLC ("Hawaii Bioenergy") (collectively "Parties").¹

The Order states that within forty-five days from the date of the Order, the Parties shall file a stipulated procedural order setting forth the issues, procedures, and schedule to govern this proceeding. The stipulated procedural schedule that the Parties submit to the commission, should, to the extent possible, allow the commission to complete its deliberations and issue a decision by March 31, 2009. If the Parties are unable to stipulate, each of them shall file proposed orders for the commission's review and consideration within the same deadline.² The Order Granting Intervention extended the deadline for filing a stipulated procedural order until December 22, 2008.³

The Meet And Confer Process

On December 19, 2008, a majority of the parties participated in a meet and confer process in Honolulu either in person or telephonically. During that meeting, a draft stipulated procedural order which had been previously circulated and modified was discussed. The parties discussed and agreed upon certain issues to be added or modified for the Commission's consideration as well as a procedural schedule. Subsequent to the December 19, 2008 meeting, a revised SPO was circulated among the parties for approval. The revised SPO attempted to incorporate the issues proposed and discussed by the parties with some minor modifications, and modified some of the procedural steps and dates contained in Exhibit A to the SPO consistent with comments received at the December 19, 2008 meeting. In response to suggestions that electronic service of documents would avoid the need for distribution of hard copies to a significant service list and would reduce negative impacts upon the environment, the parties also stipulated to electronic service of documents. This does not include the Commission and Consumer Advocate which will continue to be served with requisite hard copies pursuant to H.A.R. § 6-61-18.

Signatories to the SPO

The attached SPO, including Exhibit A, has been approved by all of the signatories to the SPO. Due to the number of parties, some of whom reside on different islands, the signatories have either authorized HECO representatives to sign on their behalf or have provided facsimile signatures. To the extent that the Commission desires original signatures, please let us know and we will secure those and transmit them to the Commission.

¹ Order Granting Intervention at Ordering Paragraph 1

² Order at 7

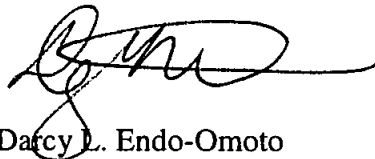
³ Order Granting Intervention at Ordering Paragraph 2.



It is the HECO Companies' understanding that there are certain parties that agree with the substance of the SPO but which seek to include additional issues or propose different dates or procedural steps for Exhibit A to the SPO. The HECO Companies respectfully submit that the attached SPO incorporates a modified Statement of the Issues which shall be liberally construed within context and which encompasses many if not all of the additional issues raised. Moreover, the Stipulated Regulatory Schedule attached as Exhibit A to the SPO provides for significant input, discussion, and an exchange of information among the parties with a goal toward a settlement of the issues to the extent possible while also appropriately preserving the milestones set forth in both the HCEI Agreement and the Commission's Order.

The parties identified as signatories to the SPO believe that the SPO includes the appropriate issues for consideration and examination in this proceeding and that Exhibit A represents a reasonable procedural course for moving forward. Accordingly, the below named parties respectfully request the Commission's approval of the SPO attached hereto.

Very truly yours,



Darcy L. Endo-Omoto
Vice President
Government & Community Affairs

Attachment

cc: Service List



CERTIFICATE OF SERVICE
(Docket No. 2008-0273)

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